THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19973 of 1994

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the first respondent in awarding selection grade to the second respondent as arbitrary and illegal and consequently direct the first respondent to sanction selection grades to the petitioners with effect from 25.8.1993 by extending all monetary benefits to them.

It appears, under G.O.Ms.No.173 Finance (Pay Commission) Department dated 13.6.1969, selection grades have been introduced for each category of the revised scales upto and inclusive of Classification XX. These grades are indicated in Schedule-II to the Notification in para 15 of the said order. The number of posts in each selection grade limited to 15% of the total number of posts in each category. Further, persons with a minimum service of 8 years in their present grades will ordinarily be eligible for appointment to these posts.

It seems, selection grade posts in various categories stood abolished way back in the year 1975 itself. However, through G.O.Ms.No.4 Finance and Planning (GING.WING-PC) Department dated 6.1.1986, the selection grades introduced in the revised scales of 1969 and abolished thereafter, procedure for finalisation of pending cases was ordered. The G.O. contemplates that all employees who feel that they have legitimate claim for selection grade appointment prior to 13.6.1975 as per the orders governing creation of selection grade posts and appointments thereto should apply to the concerned heads of officers/departments before 31.3.1986.

It appears, in pursuance of G.O.Ms.No.4 dated 6.1.1986, the second respondent had applied for selection grade post on 27.3.1986 and he was sanctioned with selection grade post with effect from

1.4.1974 with all consequential re-fixation in the revised pay scales of 1974, 1978 and 1981 and also in Special Grade Post Scale Special Adhoc promotion post Scale-I and Scale-II. He was also sanctioned with annual increments accrued in the above scales. It is the grievance of the petitioners that they were appointed as Technical Assistants on 24.2.1967 and 7.7.1967 respectively, whereas second respondent was appointed on 21.7.1967, but, the second respondent was preferred for special grade post arbitrarily. In fact, petitioners have also completed 8 years of service in the year 1975 and as per G.O.Ms.No.173, they are eligible for being considered for sanction of selection grade posts. Be that as it may, when the matter was reopened, the case of the second respondent was considered and at least at that point of time, the authorities ought to have considered the case of the petitioners for sanction of selection grade since they were seniors to the second respondent.

In the counter filed by the respondents, it is stated that the cases of Lab Assistant (Tech) (Electrical) and Pump Operators for sanction of selection grade, was brought to the notice of grievances committee, which was headed by Mr. P.K.Rastogi, Commissioner and Director of Technical Education, Andhra Pradesh, Hyderabad and the said committee referred the same to the Principal of the Institute to take an appropriate decision. Accordingly, the Principal after lot of deliberations, considered for grant of selection grade scale to one Lab Assistant (Technical) in Electrical Engineering and one Pump Operator. Accordingly, second respondent, Lab Assistant (Tech.), Electrical Engineering Department was given selection grade from the date specified in G.O.Ms.No.173 dated 13.6.1969. Hence, the petitioners claim that the second respondent who is junior to them was given selection grade depriving them is untenable.

Whereas, the learned counsel for respondents strenuously

contended that as per policy, 15% of the posts were earmarked and sanctioned for selections grade posts. The first petitioner hails from Mechanical Engineering Department and the second petitioner hails from Civil Engineering Department and in both the departments, 15% of the people were identified and they have been granted selection grade posts. Whereas, the second respondent hails altogether from a different department i.e. Electrical Engineering Department and in Electrical Engineering Department, the second respondent fits into the teeth of 15% of the selection grade post. He further contended that there are no promotional avenues to the posts of Technical Assistants and there are no transfers from one department to another department, as they were appointed in the concerned branches of Engineering. There is no common seniority for Technical Assistants in different departments. Petitioners and second respondent each one of them belong to different branches of Engineering, namely, Mechanical, Civil and Electrical respectively and selection grade posts were sanctioned to each department separately. Further, the petitioners have not submitted their applications within the reasonable time i.e. before 31.3.1986, therefore, their cases were not considered.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the material made available on record.

The theory adopted in the counter filed by the first respondent does not support the case of the second respondent. If the second respondent fits into the teeth of 15%, he could have been sanctioned with the post along with others way back in the year 1975 itself. There is no necessity of re-considering his case at this point of time. It is an admitted fact that the second respondent is junior to the petitioners and was given selection grade post. In fact, the second respondent did not fit into the

teeth of 15% of selection grade posts, therefore, he made a representation and thereafter, his case was considered after deliberations. In a scheme of sanctioning selection grades, no senior can be denied of the benefits while it is being extended to a junior one. The only ground made out by the respondents is that the petitioners have not made their applications within the time prescribed, therefore, their applications were not considered.

Under those circumstances, the respondents are directed to consider the case of the petitioners on par with second respondent for extending the benefit of selection grade posts in the category of Technical Assistants within a period of two months from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No order as to costs.

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C.V.RAMULU, J

Date: 20.3.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19973 of 1994

20.3.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19973 of 1994

Date: 20th March, 2007

Between:

A.R.V.Raja Rao & another.

.. Petitioners

And

The Regional Engineering College,
represented by its Principal,
Kazipet, Warangal & another.

.. Respondents